

**SENATE . . . . . No. 1332****The Commonwealth of Massachusetts**

PRESENTED BY:

***Rebecca L. Rausch***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to out-of-hospital birth access and safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/1/2019</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>2/27/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/6/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/25/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/28/2019</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/6/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>5/21/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/11/2019</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>2/27/2019</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>5/22/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/25/2019</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>5/22/2019</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>5/22/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/24/2019</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/30/2019</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/28/2019</i>

<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>1/29/2019</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/31/2019</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>	<i>1/30/2019</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>1/30/2019</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>5/29/2019</i>

# SENATE . . . . . No. 1332

---

By Ms. Rausch, a petition (accompanied by bill, Senate, No. 1332) of Rebecca L. Rausch, Kay Khan, Harriette L. Chandler, Jason M. Lewis and other members of the General Court for legislation relative to out-of-hospital birth access and safety. Public Health.

---

## The Commonwealth of Massachusetts

---

In the One Hundred and Ninety-First General Court  
(2019-2020)

---

An Act relative to out-of-hospital birth access and safety.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1        SECTION 1. Section 9 of chapter 13 of the General Laws, as appearing in the 2016  
2        Official Edition, is hereby amended by inserting after the word “counselors”, in line 7, the  
3        following words:- “, the board of registration in midwifery, ”.

4        SECTION 2. Chapter 13 of the General Laws, as so appearing, is hereby amended by  
5        adding the following section:-

6            Section 110.

7            (a) There shall be within the department a board of registration in midwifery which shall  
8        consist of 8 persons appointed by the governor, 5 of whom shall be midwives with at least 5  
9        years of experience in the practice of midwifery and who shall be licensed under sections 275 to  
10      292 of chapter 112, 1 of whom shall be a physician licensed to practice medicine under section 2  
11      of said chapter 112 with experience working with midwives, 1 of whom shall be a certified  
12      nurse-midwife licensed to practice midwifery under section 80B of said chapter 112 and 1 of

13 whom shall be a member of the public. For the initial appointment, the 5 members required to be  
14 midwives shall be persons with at least 5 years of experience in the practice of midwifery who  
15 meet the eligibility requirements set forth in subsection (a) of section 282 of chapter 112. Two of  
16 the members of the board of registration in midwifery shall have experience working on racial  
17 disparities in maternal health or be a member of a population underrepresented in the midwifery  
18 profession. When making such appointments, the governor shall consider the recommendations  
19 of organizations representing certified professional midwives in the commonwealth. Board  
20 members shall be residents of the commonwealth. The appointed members shall serve for terms  
21 of 3 years. A member shall not serve for more than 2 consecutive terms; provided, however, that  
22 a person who is chosen to fill a vacancy in an unexpired term of a prior board member may serve  
23 for 2 consecutive terms in addition to the remainder of that unexpired term. A member may be  
24 removed by the governor for neglect of duty, misconduct or malfeasance or misfeasance in the  
25 office after a written notice of the charges against the member and sufficient opportunity to be  
26 heard thereon. Upon the death or removal for cause of a member of the board, the governor shall  
27 fill the vacancy for the remainder of that member's term after considering suggestions from a list  
28 of nominees provided by organizations representing certified professional midwives in the  
29 commonwealth.

30 (b) The board shall annually elect from its membership a chair and a secretary who shall  
31 serve until their successors have been elected and qualified. The board shall meet at least 4 times  
32 annually and may hold additional meetings at the call of the chair or upon the request of 4  
33 members. A quorum for the conduct of official business shall be a majority of those appointed.  
34 Board members shall serve without compensation, but shall be reimbursed for actual and  
35 reasonable expenses incurred in the performance of their duties. The members shall be public

36 employees for the purposes of chapter 258 for all acts or omissions within the scope of their  
37 duties as board members.

38 SECTION 3. Section 3B of Chapter 46 of the General Laws, as so appearing, is hereby  
39 amended by inserting in line 1 after the word “physician” the following: - “or licensed midwife”.

40 SECTION 4. Chapter 112 of the General Laws, as so appearing, is hereby amended by  
41 adding the following 18 sections:—

42 Section 275. As used in sections 275 to 292, inclusive, of this chapter, the following  
43 words shall, unless the context requires otherwise, have the following meanings:

44 “Board”, the Board of Registration in Midwifery, established under section 110 of  
45 chapter 13.

46 “Certified nurse-midwife”, a nurse with advanced training and who has obtained  
47 certification by the American Midwifery Certification Board.

48 “Client”, a person under the care of a midwife and such person’s fetus or newborn.

49 “Department”, the Department of Public Health.

50 “Licensed midwife”, a person registered by the board to practice midwifery under  
51 sections 275 to 292, inclusive.

52 “MBC”, the Midwifery Bridge Certificate issued by the NARM, or its successor  
53 credential.

54 “MEAC”, the Midwifery Education Accreditation Council or its successor organization.

55           “Midwifery”, the practice of providing primary maternity care to a client and newborn  
56        during the preconception, antepartum, intrapartum and postpartum periods.

57           “NARM”, the North American Registry of Midwives or its successor organization.

58           Section 276. Nothing in sections 275 through 292 inclusive, shall limit or regulate the  
59        practice of a licensed physician, certified nurse-midwife, or licensed basic or advanced  
60        emergency medical technician. In addition, sections 275 through 292 inclusive shall not apply to  
61        any person who, in good faith, engages in the practice of the religious tenets of any church or in  
62        any religious act if no fee is contemplated, charged or received, or to any person rendering aid in  
63        an emergency. The practice of midwifery shall not constitute the practice of medicine, certified  
64        nurse-midwifery, or emergency medical care to the extent that a midwife advises, attends, or  
65        assists a person during pregnancy, labor, natural childbirth, or the postpartum period.

66           Section 277. The board shall make, amend and rescind such rules and regulations as it  
67        may deem necessary for the proper conduct of its duties. The commissioner may review and  
68        approve rules and regulations proposed by the board. Such rules and regulations shall be deemed  
69        approved unless disapproved within 15 days of submission to the commissioner; provided,  
70        however, that any such disapproval shall be in writing setting forth the reasons for such  
71        disapproval.

72           Section 278. The board shall keep a full record of its proceedings and keep a register of  
73        all persons registered and licensed by it, which shall be available for public inspection. The  
74        register shall contain the name of every living registrant, the registrant's last known business  
75        address and the date and number of the registrant's registration and certificate as a licensed  
76        midwife. The board shall make an annual report containing a full and complete account of all its

77 official acts during the preceding year, including a statement of the condition of midwifery in the  
78 commonwealth.

79 Section 279. The board shall:

80 (1) establish regulations that:

81 (A) are consistent with the current job description for midwifery published by the  
82 NARM;

83 (B) create processes for licensure application and renewal and for the granting of  
84 temporary permits to practice midwifery pending qualification for licensure;

85 (C) permit a licensee to obtain for clients appropriate screening and testing, including but  
86 not limited to laboratory tests and ultrasounds;

87 (D) permit a licensee to obtain and administer during the practice of midwifery,  
88 antihemorrhagic agents including but not limited to Pitocin (oxytocin), misoprostol and  
89 methergine, intravenous fluids for stabilization, vitamin K, eye prophylaxis, oxygen, antibiotics  
90 for Group B Streptococcal antibiotic prophylaxis, Rho (D) immune globulin, local anesthetic,  
91 epinephrine and other drugs and procedures consistent with the scope of midwifery practice;

92 (E) do not require a licensee to have a nursing degree;

93 (F) do not require a licensed midwife to practice under the supervision of or in  
94 collaboration with another healthcare provider or to enter into an agreement, written or  
95 otherwise, with another healthcare provider;

96 (G) do not limit the location where a licensee may practice midwifery;

97                         (H) do not allow a licensed midwife to use forceps or a vacuum extractor;  
98                         (I) do not allow a licensed midwife to obtain or administer narcotics; and  
99                         (J) require a licensed midwife to report a client's data to the MANA Statistical Registry

100                         maintained by the Midwives Alliance of North America, or a similar registry maintained by a  
101                         successor organization approved by the board, unless the client refuses to consent to the  
102                         reporting of their data.

103                         (2) examine applicants and issue licenses to those applicants it finds qualified;  
104                         (3) renew, suspend, revoke and reinstate licenses;  
105                         (4) investigate complaints against persons licensed under this chapter;  
106                         (5) hold hearings and order the disciplinary sanction of a person who violates this chapter  
107                         or a regulation of the board;

108                         (6) adopt professional continuing education requirements for licensed midwives seeking  
109                         renewal consistent with those maintained by the NARM; and

110                         (7) develop practice standards for licensed midwives that shall include, but not be limited  
111                         to:

112                         (A) adoption of ethical standards for licensed midwives and apprentice midwives;  
113                         (B) maintenance of records of care, including client charts;  
114                         (C) participation in peer review; and

115                   (D) development of standardized informed consent, reporting and written emergency  
116                   transport plan forms.

117                   Section 280. A person who desires to be licensed and registered as a midwife shall apply  
118                   to the board in writing on an application form prescribed and furnished by the board. The  
119                   applicant shall include in the application statements under oath satisfactory to the board showing  
120                   that the applicant possesses the qualifications required by section 282 preliminary to the  
121                   examination required by section 265. At the time of filing the application, an applicant shall pay  
122                   to the department a fee which shall be set by the secretary of administration and finance,  
123                   pursuant to section 3B of Chapter 7. The board, in consultation with the secretary of  
124                   administration and finance, shall institute a process for applicants to apply for a financial  
125                   hardship waiver, which may reduce or fully exempt an applicant from paying the fee pursuant to  
126                   this section.

127                   Section 281.

128                   (a) The board may adopt an exam for applicants for licensure to measure the  
129                   qualifications necessary for licensure; provided, however, that the board may accept the exam  
130                   administered by the NARM in connection with granting a certified professional midwife  
131                   credential in place of and as an equivalent to its own professional examination. In such case,  
132                   before registration in pursuance of this section, the applicant therefor shall pay the fees set forth  
133                   in Section 280. In the event the board determines to adopt a separate examination for applicants,  
134                   the board shall conduct at least one but not more than two examinations in each calendar year.

135                   (b) The board may adopt an exam for applicants to measure the qualifications necessary  
136                   in order to safely utilize the pharmaceutical agents provided for in section 290, and in such case,  
137                   shall conduct at least one but not more than two examinations in each calendar year.

138                   (c) An applicant who has failed an examination administered by the board shall not retake  
139                   the examination for a period of 6 months. An applicant who has failed an examination more than  
140                   1 time may not retake the examination unless the applicant has participated in or successfully  
141                   competed further education and training programs as prescribed by the board.

142                   Section 282.

143                   (a) To be eligible for registration and licensure by the board as a midwife, an applicant  
144                   shall:

145                   (1) be at least 21 years of age;

146                   (2) be of good moral character;

147                   (3) be a graduate of a high school or its equivalent; and

148                   (4) possess a valid certified professional midwife credential from the NARM.

149                   (b) In addition, to be eligible for registration and licensure by the board as a midwife,

150                   (1) beginning January 1, 2020, an applicant must obtain certification by completing a  
151                   program or pathway accredited by the MEAC;

152                   (2) if certification was obtained prior to January 1, 2020, from an education program or  
153                   pathway not accredited by the MEAC, an applicant must obtain the MBC; or

(3) if licensure has been maintained in a state that does not require an education or pathway accredited by the MEAC, an applicant must obtain the MBC regardless of the date of certification.

157       Section 283. Notwithstanding the provisions of section 172 of chapter 6, the board shall  
158       obtain all available criminal offender record information from the criminal history systems board  
159       on an applicant by means of fingerprint checks, and from the Federal Bureau of Investigation for  
160       a national criminal history records check. The information obtained thereby may be used by the  
161       board to determine the applicant's eligibility for licensing under this chapter. Receipt of criminal  
162       history record information by a private entity is prohibited. If the board determines that such  
163       information has a direct bearing on the applicant's ability to serve as a midwife, such information  
164       may serve as a basis for the denial of the application.

165 Section 284. Fees collected by the board shall be deposited into the Quality in Health  
166 Professions Trust Fund pursuant to section 35X of chapter 10 to support board operations and  
167 administration and to reimburse board members for actual and necessary expenses incurred in  
168 the performance of their official duties.

169           Section 285. The board may license in like manner, without examination, any certified  
170        professional midwife who has been licensed in another state under laws which, in the opinion of  
171        the board, require qualifications and maintain standards substantially the same as those of this  
172        commonwealth for licensed midwives, provided such certified professional midwife applies and  
173        remit fees as provided for in section 264.

174 Section 286.

175                   (a) The Board may, after a hearing pursuant to chapter 30A, revoke, suspend or cancel  
176                   the license of a midwife, or reprimand or censure a licensed midwife, for any of the reasons set  
177                   forth in section 61 of chapter 112.

178                   (b) No person filing a complaint or reporting information pursuant to this section or  
179                   assisting the board at its request in any manner in discharging its duties and functions shall be  
180                   liable in any cause of action arising out of receiving such information or assistance, provided the  
181                   person making the complaint or reporting or providing such information or assistance does so in  
182                   good faith and without malice.

183                   Section 287. When accepting a client for care, a midwife shall obtain the client's  
184                   informed consent, which shall be evidenced by a written statement in a form prescribed by the  
185                   board and signed by both the midwife and the client. The form shall certify that full disclosure  
186                   has been made and acknowledged by the client as to each of the following items, with the  
187                   client's acknowledgement evidenced by a separate signature adjacent to each item in addition to  
188                   the client's signature and the date at the end of the form:

189                   (1) the name, business address, telephone number and license number of the Licensed  
190                   Midwife;

191                   (2) a description of the midwife's education, training and experience in midwifery;

192                   (3) the nature and scope of the care to be given, including a description of any  
193                   antenpartum, intrapartum and/or postpartum conditions for which consultation, transfer of care or  
194                   transport to a hospital is recommended or required;

195                   (4) a copy of the medical emergency or transfer plan particular to each client as required  
196                   by section 288;

197                   (5) the right of the client to file a complaint with the board and instructions on how to file  
198                   a complaint with the board;

199                   (6) a statement indicating that the client's records and any transaction with the licensed  
200                   midwife are confidential;

201                   (7) a disclosure of whether the licensed midwife carries malpractice or liability insurance;  
202                   and

203                   (8) any further information as required by the board.

204                   Section 288. A midwife shall prepare, in a form prescribed by the board, a written plan  
205                   for the appropriate delivery of emergency care. The plan shall address the following:

206                   (1) consultation with other health care providers;

207                   (2) emergency transfer; and

208                   (3) access to neonatal intensive care units and obstetrical units or other patient care areas.

209                   Section 289. The midwife shall only accept and provide care to clients in accordance with  
210                   the scope and standards of practice identified in the rules adopted pursuant to section 279.

211                   Section 290. A midwife (i) qualified by examination under the provisions of subsection  
212                   (b) of section 281, if the board elects to adopt such examination, or (ii) who has appropriate  
213                   pharmacology training as otherwise established by rule by the board pursuant to section 279,  
214                   may obtain and administer prophylactic ophthalmic medication, anti-hemorrhagic medications

215 including but not limited to Pitocin (oxytocin), misoprostol and methergine, vitamin K, eye  
216 prophylaxis, antibiotics for Group B Streptococcal antibiotic prophylaxis, Rho (D) immune  
217 globulin, intravenous fluids, oxygen for maternal or fetal distress and infant resuscitation,  
218 epinephrine and local anesthetic and may administer such other drugs or medications as  
219 prescribed by a physician or certified nurse-midwife or otherwise consistent with the scope of  
220 midwifery practice. A pharmacist who dispenses such drugs to a licensed midwife shall not be  
221 liable for any adverse reactions caused by any method of use by the midwife.

222           Section 291. A health care provider that consults with or accepts a transport, transfer or  
223 referral from a licensed midwife, or that provides care to a client of a licensed midwife or such  
224 client's newborn, shall not be liable in a civil action for personal injury or death resulting from  
225 an act or omission by the licensed midwife, unless the professional negligence or malpractice of  
226 the health care provider was a proximate cause of the injury or death.

227           Section 292.

228           (a) Other than as set forth in the second sentence of section 276, any person who  
229 practices midwifery in the commonwealth without a license granted pursuant to sections 275 to  
230 292, inclusive, shall be punished by a fine of not less than \$100 nor more than \$1,000, or by  
231 imprisonment for not more than 3 months, or by both. The board may petition in any court of  
232 competent jurisdiction for an injunction against any person practicing midwifery or any branch  
233 thereof without a license. Such injunction may be issued without proof of damage sustained by  
234 any person. Such injunction shall not relieve such person from criminal prosecution for  
235 practicing without a license.

(b) Nothing in this section shall be construed to prevent or restrict the practice, service or activities of (1) any person licensed in the commonwealth from engaging in activities within the scope of practice of the profession or occupation for which such person is licensed, provided that such person does not represent to the public, directly or indirectly, that such person is licensed under sections 275 to 292, inclusive, and that such person does not use any name, title or designation indicating that such person is licensed under said sections 275 to 292, inclusive; or (2) any person employed as a midwife by the federal government or an agency thereof if that person provides midwifery services solely under the direction and control of the organization by which such person is employed.

245 Section 293. A licensed midwife, registered by the board of registration in midwifery  
246 pursuant to sections 275 to 293, inclusive, who provides services to any person or beneficiary  
247 covered by Title XIX of the Social Security Act or MassHealth pursuant to section 9A of chapter  
248 118E, may accept the Medicaid or MassHealth approved rate as payment in full for such  
249 services; provided, that a licensed midwife who accepts the Medicaid or MassHealth approved  
250 rate pursuant to this section shall be reimbursed at said rate for such services.

SECTION 5. Chapter 118E in the General Laws, as appearing in a 2016 Official Edition,  
is hereby amended in section 10A by adding the words “ licensed midwife,” after the word  
“physician,” in line 15 and after the word “pediatrician,” in line 20, and by inserting at the end of  
the section the following words: - “The division shall provide coverage for midwifery services  
including prenatal care, childbirth and postpartum care provided by a licensed midwife  
regardless of the site of services.”

257           SECTION 6. The board shall adopt rules and regulations pursuant to section 279 of  
258 chapter 112 of the General Laws within 365 days after the effective date of this act. Within 180  
259 days after the board adopts the rules and regulations pursuant to said section 279 of said chapter  
260 112, the board may commence the issuing of licenses.

261           SECTION 7. Nothing in this act shall preclude any person who was practicing midwifery  
262 before the effective date of this act from practicing midwifery in the commonwealth until the  
263 board establishes procedures for the licensure of midwives pursuant to sections 275 to 292,  
264 inclusive, of chapter 112 of the General Laws.

265           SECTION 8. The board, established pursuant to section 110 of chapter 13 of the General  
266 Laws, shall establish regulations for the licensure of individuals practicing midwifery prior to the  
267 date on which the board commences issuing licenses, provided that individuals practicing out-of-  
268 hospital midwifery in the commonwealth as of the date on which the board commences issuing  
269 licenses shall have 2 years from the date on which the board commences issuing licenses to  
270 provide proof of passage of a licensing examination recognized by the board and proof of  
271 completion of any continuing education requirements necessary for re-licensure.